

ESTTA Tracking number: **ESTTA459228**

Filing date: **02/29/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Twins Enterprise, Inc.
Granted to Date of previous extension	03/17/2012
Address	480 Sprague Street Dedham, MA 02026 UNITED STATES
Attorney information	Nicole Rizzo Smith Sunstein Kann Murphy & Timbers LLP 125 Summer Street Boston, MA 02110 UNITED STATES nsmith@sunsteinlaw.com Phone:617-443-9292

Applicant Information

Application No	85400638	Publication date	01/17/2012
Opposition Filing Date	02/29/2012	Opposition Period Ends	03/17/2012
Applicant	Van Gorden, Michael D 1467 Pebble Beach Dr South Lake Tahoe, CA 96150 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Bandanas; Belts; Blouses; Gloves; Hats; Jackets; Jeans; Pants; Sandals; Shoes; Short-sleeved shirts; Shorts; Socks; Sweat shirts; Sweaters; Sweatpants; Swimwear; T-shirts; Tank tops; Wristbands
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85203787	Application Date	12/22/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	47		

Design Mark	47
Description of Mark	NONE
Goods/Services	Class 025. First use: Athletic uniforms; Baby bibs not of paper; Bandanas; Baseball caps and hats; Bottoms; Caps; Cardigans; Ear bands; Ear muffs; Gloves; Hats; Headwear; Jackets; Jeans; Jerseys; Mittens; Pajamas; Pants; Pullovers; Shirts; Shorts; Socks; Sweaters; Sweatpants; Sweatshirts; Tank tops; Tops; Track jackets; Track pants; Underwear

U.S. Application No.	85203798	Application Date	12/22/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FORTY SEVEN		
Design Mark	FORTY SEVEN		
Description of Mark	NONE		
Goods/Services	Class 025. First use: Athletic uniforms; Baby bibs not of paper; Bandanas; Baseball caps and hats; Bottoms; Caps; Cardigans; Ear muffs; Earbands; Gloves; Hats; Headwear; Jackets; Jeans; Jerseys; Mittens; Pajamas; Pants; Pullovers; Shirts; Shorts; Sweat pants; Sweaters; Sweatshirts; Tank tops; Tops; Track jackets; Track pants; Underwear		

U.S. Application No.	85292861	Application Date	04/12/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	47 Â· FORTY SEVEN Â· BRAND		

Design Mark	
Description of Mark	The mark consists of concentric circles in which a stylized "'47" appears in the center circle. The outer ring of the circle contains the words "FORTY SEVEN BRAND" and two dots.
Goods/Services	Class 025. First use: Athletic uniforms; baby bibs not of paper; bandanas; baseball caps and hats; bottoms; caps; cardigans; ear muffs; earbands; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pajamas; pants; pullovers; shirts; shorts; socks; sweat pants; sweaters; sweatshirts; tank tops; tops; track jackets; track pants; underwear; footwear

Attachments	85203787#TMSN.jpeg (1 page)(bytes) 85203798#TMSN.jpeg (1 page)(bytes) 85292861#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(62595 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nicole Rizzo Smith/
Name	Nicole Rizzo Smith
Date	02/29/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application:

Serial No.: 85/400,638
Filing date: August 17, 2011
Mark: ONE47
Applicant: Michael D. Van Gorden
Published: January 17, 2012

TWINS ENTERPRISE, INC.

Opposer,

v.

MICHAEL D. VAN GORDEN

Applicant.

NOTICE OF OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Sir or Madam:

Twins Enterprise, Inc. (“Opposer”), a corporation organized and existing under the laws of the Commonwealth of Massachusetts and having its principal place of business at 480 Sprague Street, Dedham, Massachusetts 02026, believes that it will be damaged by registration of the mark shown in Application Serial No. 85/400,638 and hereby opposes said application on the grounds that:

1. Michael D. Van Gorden (“Applicant”) is an individual residing at 1467 Pebble Beach Drive, South Lake Tahoe, California 96150.

2. Application Serial No. 85/400,638, filed by Applicant on August 17, 2011, seeks registration for the mark ONE47 for use in connection with “bandanas; belts; blouses; gloves; hats; jackets; jeans; pants; sandals; shoes; short-sleeved shirts; shorts; socks; sweat shirts; sweaters; sweatpants; swimwear; t-shirts; tank tops; wristbands” in Class 25, based on intent-to-use (referred to herein as the “ONE47 Mark”). On information and belief, Applicant has not yet used the ONE47 mark in commerce in connection with the goods listed in his application.

3. Opposer is a well-known company in the licensed sports merchandise industry. Opposer sells premium apparel for Major League Baseball, the NBA and the NHL, as well as hundreds of colleges, under the marks 47 (plus design), 47, and FORTY SEVEN (collectively referred to herein as “the 47 Marks”).

4. Opposer is the owner of the following U.S. trademark applications:

a. The mark 47 for use in connection with “Athletic uniforms; Baby bibs not of paper; Bandanas; Baseball caps and hats; Bottoms; Caps; Cardigans; Ear bands; Ear muffs; Gloves; Hats; Headwear; Jackets; Jeans; Jerseys; Mittens; Pajamas; Pants; Pullovers; Shirts; Shorts; Socks; Sweaters; Sweatpants; Sweatshirts; Tank tops; Tops; Track jackets; Track pants; Underwear,” in Class 25, filed on December 22, 2010, and assigned Application Serial No. 85/203,787;

b. The mark FORTY SEVEN for use in connection with “Athletic uniforms; Baby bibs not of paper; Bandanas; Baseball caps and hats; Bottoms; Caps; Cardigans; Ear muffs; Earbands; Gloves; Hats; Headwear; Jackets; Jeans; Jerseys; Mittens; Pajamas; Pants; Pullovers; Shirts; Shorts; Sweat pants; Sweaters; Sweatshirts; Tank tops; Tops; Track jackets; Track pants; Underwear” in Class 25, filed on December 22, 2010, and assigned Application Serial No. 85/203,798; and

c. The mark 47 (plus design) for use in connection with “Athletic uniforms; baby bibs not of paper; bandanas; baseball caps and hats; bottoms; caps; cardigans; ear muffs; earbands; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pajamas; pants; pullovers; shirts; shorts; socks; sweat pants; sweaters; sweatshirts; tank tops; tops; track jackets; track pants; underwear; footwear,” in Class 25, filed on April 12, 2011, and assigned Application Serial No. 85/292,861.

5. Opposer has been using its 47 Marks since prior to Applicant’s filing of his application for the ONE47 Mark.

6. Opposer’s 47 Marks identify Opposer as the source of the relevant goods to the relevant segment of consumers, including but not limited to as a result of Opposer’s exclusive use of its 47 Marks over several years and its significant sales, marketing, and promotional activities. Opposer’s 47 Marks embody extensive goodwill with high industry recognition.

7. The goods described in the Opposer’s applications for the 47 Marks are items of clothing, including bandanas, hats, bottoms, gloves, headwear, jackets, jeans, jerseys, pants, pullovers, shirts, shorts, socks, sweaters, sweatpants, sweatshirts, tank tops, tops, track jackets, and track pants which are identical and/or similar or related to the goods that Applicant has included in his application for the ONE47 Mark, and are likely to be offered through the same or related marketing channels to the same class of consumers.

8. Applicant’s use and registration of his proposed mark will cause purchasers, prospective purchasers, users and others to be confused, mistaken or deceived into the belief, contrary to fact, that Applicant’s goods emanate from or are sponsored or approved by Opposer or are related to Opposer’s goods, thereby damaging Opposer.

The \$300 filing fee for this combined opposition will be charged to deposit account no. 19-4972; please charge any additional fees that may be required to this account. This Notice of Opposition is being filed electronically.

WHEREFORE, Opposer prays that the present opposition be sustained, and registration of the ONE47 mark sought by Applicant be refused.

Dated: February 29, 2012

TWINS ENTERPRISE, INC.

By its attorneys,

/Nicole Rizzo Smith/
Nicole Rizzo Smith
Lisa M. Titemore
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant by certified mail on the above date to Michael D. Van Gorden, 1467 Pebble Beach Drive, South Lake Tahoe, California 96150, and by email at mvangorden@aol.com.

/Nicole Rizzo Smith/
Nicole Rizzo Smith